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June 21, 2021

Via ECF

Hon. Leda Dunn Wettre, U.S.M.J.
United States District Court for the District of New Jersey
Martin Luther King Building & U.S. Courthouse
50 Walnut Street
Newark, New Jersey 07101

Re: *Three Line NJ-I, LLC v. Levine, et al.*
Civil Action No. 19-cv-17421-MCA-LDW (the “Three Line Action”)

JLS Equities LLC v. River Funding LLC, et al.
Civil Action No. 19-cv-17615-MCA-LDW (the “JLS Action”)

U.S. Bank National Ass’n, et al. v. Englewood Funding, LLC, et al.
Civil Action No. 19-cv-17865-MCA-LDW (the “US Bank Action”)

Wells Fargo Bank, National Association v. Levine, et al.
Civil Action No. 19-cv-17866-MCA-LDW (the “Wells Action”)

Privcap Funding LLC v. Levine, et al.
Civil Action No. 19-cv-18122-MCA-LDW (the “Privcap Action”)

Conventus LLC v. Levine, et al.
Civil Action No. 19-cv-18137-MCA-LDW (the “Conventus Action”)

Portal v. Levine, et al.
Civil Action No. 2:19-cv-19611-MCA-LDW (the “Portal Action”)

Dear Judge Wettre:

Sills Cummis & Gross
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Hon. Leda Dunn Wettre, U.S.M.J.
June 21, 2021
Page 2

This firm represents Colliers International NJ LLC, the Court-Appointed Receiver (the “Receiver”) in the actions listed above (collectively, the “Actions”). Pursuant to Your Honor’s Text Orders entered in several of the Actions on May 11, 2021, in anticipation of the telephonic conference scheduled for June 24, 2021, at 3:30 p.m., please accept the following joint status report for the Actions.

1. The Three Line Action.¹

The Receiver is continuing to perform its Court-Ordered functions for the two properties that are the subject of this Action: (i) 314-320 Watson Ave., Perth Amboy, owned by PA Watson Ventures LLC; and (ii) 9 Bentley Ave., Jersey City, owned by Bentley Norse Limited Liability Company. In addition to the general summary in the Legal Addendum attached to the Receiver’s Monthly Report filed in the Three Line Action on June 15, 2021 (ECF # 126-3), the Receiver has been in discussions with Three Line to list and market both properties for sale, which is expected to begin shortly.

Both properties house a substantial number of defaulting tenants that the Receiver has been unable to evict due to the ongoing moratorium imposed as a result of the COVID-19 health emergency. Accordingly, the Receiver has secured interim funding from Three Line and/or its predecessors to defray the cost of managing and maintaining these properties. Three Line’s counsel has confirmed that it is actively pursuing foreclosure actions in the New Jersey Superior Court concurrently with these proceedings.

2. The JLS Action.

Two of the three properties that were the subject of this Action (107-109 Hudson Street, Hackensack, previously owned by Lenox Hudson LLC, and 54-78 Temple Avenue, Hackensack, previously owned by Lenox Temple LLC), were the subject of a sale approval motion that the Receiver filed, which was granted on April 7, 2021 (ECF # 141). The closing consummated on May 27, 2021, and on June 10, 2021 (ECF # 148), the Receiver submitted a proposed Consent Order authorizing, among other things, the Receiver’s deposit of all surplus funds generated from the sale of the Lenox Temple property. There were no surplus resulting from the sale of the Lenox Hudson property.

a. With regard to these two properties, counsel for JLS has requested the following update be reported:

¹ Although Plaintiff Three Line-NJ1, LLC (“Three Line”) is understood to be the current first-priority mortgagee in connection with the properties that are the subject of this Action (and certain properties that are the subject of other actions), by way of background, the Three Line Action was initially commenced by Federal Home Loan Mortgage Corp. (ECF #1); Orec NJ, LLC substituted as the party plaintiff on January 2, 2020 (ECF # 66); and Three Line substituted as the party plaintiff on November 24, 2020 (ECF # 113).

Sills Cummis & Gross
A Professional Corporation

Hon. Leda Dunn Wettre, U.S.M.J.
June 21, 2021
Page 3

The Court ordered that net proceeds from the sale of the Lenox Temple property be escrowed (about \$1.2 million). JLS Equities, LLC, a plaintiff in one of the two receivership actions including this property, objected to payment of an alleged second mortgage lien granted to J&J Capital. DSE Family Investments VII, LLC and/or Ascend Re Partners, LLC (“Ascend”) also objected to payment of the second mortgage.

JLS Equities served written discovery requests (via subpoenas) on J&J Capital. J&J Capital recently responded. Also, JLS filed an action in New Jersey state court seeking to void the mortgage to J&J Capital or have it reclassified. JLS Equities filed the state court action since (1) J&J Capital is not a party to the federal receivership, and (2) joinder of J&J Capital to this case may cause the court to lose jurisdiction due to a lack of diversity. J&J Capital has been in discussions with Ascend over whether Ascend should also be a party to the state court case.

JLS Equities would like to discuss with the court and parties where the litigation of the rights to the proceeds of the Lenox Temple property should be litigated.

b. Counsel for Ascend Re Partners, LLC, Ascend Re Partners IIC, LLC, and DSE Family Investments VII, LLC, Michael Paul Bowen, Esq. and Skye Gao, Esq. of the firm, Glenn Agre Bergman & Fuentes, have requested the following update be provided to the Court:

Ascend Re Partners, LLC, Ascend Re Partners II, LLC, and DSE Family Investments VII, LLC intend to file a motion to intervene *in both the US Bank and JLS actions* by Monday, June 28, 2021, and to timely assert their right to distributions from the surplus sale proceeds that will be held in escrow by the Court. (Emphasis added.)

c. With regard to the third property that is the subject of this action, 1407 Palisade Avenue, Teaneck, owned by Teaneck Plaza Ventures, LLC, there is likewise a number of defaulting tenants, including commercial tenants. (ECF #149 (Receiver’s May 2021 Status Report)). Although the Receiver has, to date, largely been able to perform its duties without the need for additional, interim funding, certain issues have arisen that may necessitate additional funding from JLS. Specifically, commercial tenant ETC Steakhouse has withheld rent payments as a result of alleged issues affecting the floor/subfloor of certain areas of the leased premises. The Receiver is in the process of investigating this issue and securing a quote for potential repairs in an effort to resolve the tenancy dispute/default. Further, there are ongoing trash

Sills Cummis & Gross
A Professional Corporation

Hon. Leda Dunn Wettre, U.S.M.J.
June 21, 2021
Page 4

violations the Receiver believes to be caused by certain tenants at the property. Although Notices to Cease have been issued to all tenants, further investigation is ongoing, and it is anticipated a summary eviction action may be necessary as to one or more of the tenants. The Receiver likewise continues efforts to market this property for sale. The Receiver is awaiting direction from JLS concerning its intention to market and sell this Property.

3. The US Bank Action.

In light of the numerous properties that are the subject of the US Bank Action, the Receiver respectfully refers to its May 2021 Status Report and Legal Addendum filed on June 15, 2021 (ECF # 160) for a general summary of the issues relevant to each of the Properties. The Receiver provides the following updates, however, concerning those Properties that are or were the subject of a sale motion:

- 1) **Lenox Temple LLC, Lenox Liberty LLC, Lenox Hudson LLC & Hackensack Norse LLC:** (i) 88 McKinley St., Hackensack and 170 South Park St., Hackensack, previously owned by Hackensack Norse, LLC, (ii) 107-109 Hudson St., previously owned by Lenox Hudson LLC, (iii) 406-444 Liberty St., Little Ferry, previously owned by Lenox Liberty LLC, and (iv) 54-78 Temple Ave., Hackensack, previously owned by Lenox Temple LLC (together, the “Lenox Portfolio”) were sold on May 27, 2021 and title was transferred to the new owner, pursuant to the Court’s Sale Approval Order (ECF # 140). On June 10, 2021, the Receiver submitted a proposed Consent Order (ECF #156) in the US Bank Action and the JLS Action, seeking, *inter alia*, authorization to deposit surplus and for the Receiver to submit a final accounting and be discharged as to these properties. Although the proposed Consent Order is pending the Court’s approval, Interested Party Hutton Ventures has moved for the disbursement of certain funds that the Receiver seeks to deposit (see ECF #161).
- 2) **Plainfield Norse, LLC:** A purchase and sale agreement has been executed with a purchaser for 179-199 Grant St., Perth Amboy, and 359-361 Gordon St., Perth Amboy, both owned by Plainfield Norse, LLC (together with a property in which Wells Fargo maintains a first-priority interest, 337-339 Washington St., Perth Amboy, owned by Amboy Norse). The Receiver has served copies of the PSA upon all parties, and anticipates securing payoff information, serving notice to all Interested Parties, and filing a Sale Approval Motion prior to the end of July 2021.

Sills Cummis & Gross
A Professional Corporation

Hon. Leda Dunn Wettre, U.S.M.J.

June 21, 2021

Page 5

- 3) **Atlantic Norse LLC:** The Receiver filed a Sale Approval Motion for the Properties located at 212, 214 & 225 Atlantic Avenue, Atlantic City, owned by Atlantic Norse, LLC, on June 10, 2021 (ECF # 155), which is returnable on July 6, 2021. To date, no opposition has been received.
- 4) **Brooklawn Norse LLC:** The Receiver and a prospective purchaser executed an Agreement of Purchase and Sale, dated March 18, 2021, followed by three amendments, for the Properties located at 301, 401, and 501 Browning Lane, Brooklawn, which is owned by Brooklawn Norse LLC. On June 21, 2021, the Receiver served all Interested Parties with a payoff notice. The Receiver anticipates that it will file a motion to approve the sale by the end of this week.
- 5) **Elizabeth Norse LLC:** On June 11, 2021, the Receiver filed a Motion to Approve the sale of the Property owned by Elizabeth Norse LLC, located at 357 & 363 West End Avenue, Elizabeth, together with the Property located at 76-90 Dehart Place, Elizabeth, for which Wells Fargo holds the first-priority mortgage (ECF # 158). The Receiver's Sale Approval Motion is returnable on July 6, 2021. Pursuant to the PSA, the purchaser may terminate the sale contract if a Sale Approval Order is not entered by August 31, 2021.
- 6) **Garfield Norse LLC:** On April 22, 2021, the Receiver executed a purchase and sale agreement for the Properties owned by (i) Garfield Norse LLC, located at (a) 77 Prospect Street, Garfield, (b) 123 Pierre Avenue, Garfield, and (c) 132 Jewell Street a/k/a 113-115 Banta Avenue, Garfield, and by (ii) Raleigh Norse Management LLC, located at 95 Jewell Street, Garfield. Pursuant to an amendment to the PSA, due diligence will expire on July 9, 2021. Once the diligence period expires, the Receiver intends to issue a payoff notice to all Interested Parties in July, and to file a motion for sale approval thereafter.

Counsel for the plaintiffs in the US Bank Action advises that the first-priority mortgagee for the Property located at 12 Meadow Road, Pennsville, and owned by Penn Norse LLC, is the subject of a foreclosure action pending in the New Jersey Superior Court. We are advised that a final judgment of foreclosure has been entered, a writ of execution has been issued, and the plaintiff is awaiting notice of the date of a sheriff's sale.

Counsel for Three Line has likewise indicated that it is pursuing a foreclosure action in the New Jersey Superior Court for those properties where it is the holder of a first priority mortgage, including the Property located at 2680 John F. Kennedy Boulevard, Jersey City, which is owned by 2680 Kennedy Ventures LLC. There were discussions concerning a potential sale of this property which were ultimately unsuccessful.

Sills Cummis & Gross
A Professional Corporation

Hon. Leda Dunn Wettre, U.S.M.J.
June 21, 2021
Page 6

4. The Wells Fargo Action.

In light of the numerous properties that are the subject of the Wells Fargo Action, the Receiver respectfully refers to its May 2021 Status Report and Legal Addendum filed on June 15, 2021 (ECF # 155) for a general summary of the issues relevant to each of the properties. The Receiver provides the following updates, however, concerning those properties that are or were the subject of a Sale Approval Motion and/or for which the Receiver seeks to be discharged:

- 1) **Aljo Norse LLC:** On June 14, 2021, the Receiver filed a motion to approve a sale of the property located at 125 6th Avenue, Clifton, which is owned by Aljo Norse LLC. (See ECF # 153). The Receiver's Sale Approval Motion is returnable on July 19, 2021.
- 2) **Amboy Norse LLC, Raleigh Norse Management LLC, and Dehart Norse LLC:**
 - a. 337-339 Washington Street, Perth Amboy, owned by Amboy Norse LLC, is the subject of a purchase and sale agreement together with certain properties owned by Plainfield Norse LLC. It is anticipated a motion to approve the sale will be filed in July 2021.
 - b. 95 Jewell Street, Garfield, owned by Raleigh Norse Management LLC, is the subject of a purchase and sale agreement together with certain properties owned by Garfield Norse LLC. It is anticipated a motion to approve the sale will be filed in July 2021.
 - c. 76-90 Dehart place, Elizabeth, owned by Dehart Norse LLC, is the subject of a purchase and sale agreement together with a property owned by Elizabeth Norse, LLC. The Receiver has filed a motion to approve the sale that is returnable on July 6, 2021.
- 3) **Wallis Norse LLC:** The Receiver filed a motion to approve the sale of the property located at 66-68 Wallis Avenue, Jersey City, owned by Wallis Norse LLC, on June 11, 2021 (ECF # 150). The motion is returnable on July 6, 2021. To date, no opposition has been received.
- 4) **Westville Norse LLC:** The Court entered a Consent Order on June 4, 2021 (ECF # 148) terminating Colliers as the Receiver for the Property located at 910 Gateway Boulevard, Westville, which was previously owned by Westville Norse LLC before the Receiver sold it with this Court's approval. The Receiver anticipates submitting a final accounting for the Court's review

Sills Cummis & Gross
A Professional Corporation

Hon. Leda Dunn Wettre, U.S.M.J.
June 21, 2021
Page 7

and approval on or before July 2, 2021.

- 5) **Jordan Ventures LLC:** The Receiver filed a motion to approve the sale of the Property located at 17 Teaneck Road, Ridgefield Park, owned by Jordan Ventures LLC, on May 28, 2021 (ECF # 146). This motion is returnable today, June 21, 2021, and is unopposed.
- 6) **Palisade LM LLC:** The Receiver filed a motion to approve the sale of Property located at 337-341 68th Street, Guttenberg, owned by Palisade LM LLC, on May 10, 2021 (ECF # 137). On May 19, 2021, the Receiver submitted a proposed, revised Sale Order in connection with the motion (ECF # 145). The motion was returnable on June 7, 2021, was not opposed, and is awaiting a decision.
- 7) **Riverside Norse LLC:** The Receiver and a prospective purchaser executed an Agreement of Purchase and Sale, dated April 1, 2021, for the Property located at 429 St. Mihiel Drive, Riverside, owned by Riverside Norse LLC. On June 8, 2021, the Receiver served all Interested Parties with a payoff notice, and it is anticipated a motion to approve the sale of this property will be filed by June 25, 2021.
- 8) **Prospect Norse LLC:** We have been advised that the plaintiff/first-priority mortgagee obtained final judgment of foreclosure in a foreclosure proceeding pending in the New Jersey Superior Court for the Property located at 200 East Maple Avenue, Merchantville, previously owned by Prospect Norse LLC. We are also advised that the plaintiff acquired title following a sheriff's sale on or about May 27, 2021. Because the Receiver secured a purchase and sale agreement for the sale of this property prior to the sheriff's sale, it is anticipated that the Receiver will remain a participant in this transaction.
- 9) **PA Norse LLC and Woodbine Norse LLC.** We have been advised that the plaintiff/first priority mortgage completed foreclosure proceedings in the New Jersey Superior Court for the property owned by PA Norse, located at 388 Smith Street, Perth Amboy, and the property owned by Woodbine Norse, located at 300 Broadway, Westville, New Jersey. We are also advised that the plaintiff in each action acquired title to each property following a sheriff's sale. Accordingly, a proposed form of Consent Order Discharging Receiver for (1) the Woodbine Property, and (2) the PA Norse Property, Only, was submitted earlier today, June 21, 2021, for the Court's consideration.

Sills Cummis & Gross
A Professional Corporation

Hon. Leda Dunn Wettre, U.S.M.J.
June 21, 2021
Page 8

5. The Privcap Action.

As set forth further in the Receiver's May 2021 Status Report filed on June 15, 2021 (ECF # 102), Colliers was appointed the Receiver with respect to eight properties for which Privcap asserts a secured interest. While Colliers continues to perform its Court-Ordered obligations with respect to each of these properties (ECF # 94), Privcap's counsel has indicated that it is pursuing its foreclosure remedies for each of the subject properties in actions pending in the New Jersey Superior Court. In the meantime, Privcap has instructed the Receiver to not take any action that would necessitate further funding advances, such as redeeming tax sale certificates encumbering the properties owned by (i) Amboy LP Ventures LLC, located at 285 Bertrand Avenue, Perth Amboy, (ii) Perth LP Ventures LLC, located at 299 New Brunswick Avenue, Perth Amboy, and (iii) North Bergen Ventures LLC, located at 1114 7th Street, North Bergen.

The Receiver and Privcap have been discussing marketing one or more of the properties for sale that remain the subject of this Action.

6. The Conventus Action.

On May 3, 2021, this Court entered a Consent Order discharging Colliers as the Receiver for the properties that were the subject of this action (ECF # 123). Pursuant to that Order, on June 16, 2021, the Receiver filed its Final Accounting (ECF # 125), and objections to the accounting are due on or before June 23, 2021. Absent any objection, the Receiver will be discharged on June 23, 2021; nonetheless, the Receiver reserves its right to seek satisfaction from Conventus of any unpaid fees and expenses.

Following the sale of 16 of the 18 Properties to a third party, we have communicated extensively with the new owners concerning requests to dismiss or transition pending tenancy actions that the Receiver initiated during its oversight of these assets. It is anticipated that this process will be completed within the next ten (10) days.

7. The Portal Action.

The plaintiffs in this Action do not hold a secured interest in any of the subject Properties, all of which are also the subject of one of the first six Actions. These plaintiffs have been largely uninvolved with these Properties or the related proceedings for a significant period of time. When numerous efforts to communicate with counsel for these plaintiffs' proved unsuccessful, we were contacted on Friday by a family member of N. Ari Weisbrot, Esq., to advise that he passed away on May 27, 2021, and that efforts are now being made to address his law practice. As certain relief is necessary in connection with the properties that are also the subject of this Action, we will require the Court's guidance concerning how to proceed while the transition of this matter, and Mr. Weisbrot's practice, is being addressed.

Sills Cummis & Gross
A Professional Corporation

Hon. Leda Dunn Wettre, U.S.M.J.
June 21, 2021
Page 9

Thank you for the Court's courtesies and attention to these matters. If there is any additional information we can provide in advance of the upcoming telephonic status conference, please do not hesitate to contact the undersigned.

Respectfully submitted,

/s/ Jaimee Katz Sussner

Jaimee Katz Sussner

cc: Hon. Madeline Cox Arleo, U.S.D.J.
All Counsel of Record
(All via ECF only)